

Serial No. 10/034,637

Docket No.: KCC-13,776.1

**REMARKS**

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-41 are pending.

**Amendments to the Claims**

Claims 1-41 have been examined with Claims 14, 30, and 39 being allowed. Applicants have amended Claims 1, 13, 14, 17, 23-25, 29, 30, 32-35, and 38, and have canceled Claims 12, 15, 28, 31, and 37. No new matter has been added by this Amendment.

Claims 1, 17, and 32 have been amended to eliminate the "porous" nonwoven web limitations, and to include the limitations of a "pulp-based" nonwoven web, the density modulator consisting essentially of an alkyl glycoside, and the at least one layer treated with the density modulator increasing in thickness by at least about 12% when the at least one layer comes into contact with a blood-containing bodily fluid. Support for this amendment is provided, for example, at page 18, lines 10-21, and page 19, line 20 – page 20, line 1, of the specification, as well as in Claims 12, 15, 28, 31, and 37. Thus, Applicants respectfully request cancellation of Claims 12, 15, 28, 31, and 37.

Claims 13, 29, and 38 have been amended by replacing "porous" with "pulp-based" to be consistent with the antecedent bases in the corresponding independent claims. Claims 13, 14, 29, 30, and 38 have been further amended by removing "nonwovens" and "fluid permeable polymer film" from the list of "pulp-based" nonwoven web materials.

Claims 14 and 30 have been further amended to clarify that at least one of the layers, not necessarily a superabsorbent-containing layer, comprises a pulp-based nonwoven web material and is treated with a density modulator, and to include the limitation of the density modulator consisting essentially of an alkyl glycoside. Support for this amendment is provided at page 18, lines 6-11. Claims 14 and 30 have also been amended to correct the antecedent basis of "nonwoven web material."

KCC-1034-CIP1

9

MR/S

Serial No. 10/034,637

Docket No.: KCC-13,776.1

Claims 23-25 have been amended to clarify that the amount of the density modulator applied to the containment layer is measured in terms of the weight of the containment layer, not the liner layer. Support for this amendment is provided at page 16, lines 1-4.

Claims 33-35 have been amended to clarify that the recited concentration of the alkyl glycoside is measured with respect to the weight of the substrate alone. Support for this amendment is provided at page 14, lines 12-15.

The total number of claims has been reduced, and the number of independent claims remains unchanged. Therefore, no additional claim fee is due.

#### **Claim Rejections - 35 U.S.C. §102**

The rejection of Claims 1-7, 10, 13, 15, 17-23, 26, 29, 31-33, and 38 under 35 U.S.C. §102(a) as being anticipated by Yahiaoui et al. (PCT Publication No. WO 98/10134, hereinafter "Yahiaoui") is respectfully traversed.

Yahiaoui discloses the treatment of nonwoven materials with a combination of a surfactant and a viscosity modifier. The viscosity modifier may be an alkyl glycoside.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Yahiaoui does not disclose each and every element or limitation of amended Claims 1, 17, or 32.

Applicants' invention as recited in Claims 1, 17, and 32 requires a layer or substrate to include a pulp-based nonwoven web material treated with a density modulator or treatment consisting essentially of an alkyl glycoside. Each of these independent claims further requires that the treated layer or substrate increases in thickness by at least about 12% when the layer or substrate comes into contact with a blood-containing bodily fluid.

Yahiaoui does not disclose a density modulator or treatment consisting essentially of an alkyl glycoside applied to a pulp-based nonwoven web material. Instead, Yahiaoui requires both a surfactant and a viscosity modifier applied to a material that is not pulp-based. The substrate materials in Yahiaoui are nonwoven webs that are not pulp-based, such as meltblown, spunbond, and bonded carded webs.

Serial No. 10/034,637

Docket No.: KCC-13,776.1

A surfactant is applied to these materials to increase the hydrophilicity. The viscosity modifier in Yahiaoui serves to reduce the viscosity of the surfactant and to maintain the durability of the surfactant on the substrate.

Yahiaoui discloses alkyl glycoside as one suitable viscosity modifier. Although Applicants disclose at page 18, lines 14-15, that alkyl glycosides are commonly used as surfactants, Yahiaoui does not disclose or suggest alkyl glycoside as a suitable surfactant in combination with the viscosity modifier. Instead, Yahiaoui discloses a blend of ethoxylated castor oil and sorbitan monooleate as a suitable surfactant. More particularly, Yahiaoui discloses the use of alkyl polyglycoside to reduce the viscosity and maintain the desirable durability of treatments such as a blend of ethoxylated castor oil and sorbitan monooleate (Pages 10-11).

Yahiaoui also does not disclose any treatment that expressly results in an increase in substrate thickness by at least about 12% when the treated substrate is in contact with a blood-containing bodily fluid. Instead, the combined surfactant and viscosity modifier in Yahiaoui are described as having the effect of providing durability of wettability, or the ability to withstand multiple insults, for a substrate. Additionally, the combined surfactant and viscosity modifier in Yahiaoui provides a treatment having a suitably low viscosity. None of the attributes of the treatment in Yahiaoui suggest any effect on substrate thickness when in contact with a blood-containing bodily fluid.

For at least the reasons presented above, Applicants respectfully submit that Claims 1, 17, and 32 are not anticipated by Yahiaoui. Because Claims 2-7, 10, 13, and 15 depend from Claim 1, Claims 18-23, 26, 29, and 31 depend from Claim 17, and Claims 33 and 38 depend from Claim 32, these claims are also not anticipated by Yahiaoui. Thus, Applicants respectfully request withdrawal of this rejection.

#### **Claim Rejections - 35 U.S.C. §103**

The rejection of Claims 8-9, 16, 24-25, 34-35, and 40-41 under 35 U.S.C. §103(a) as being unpatentable over Yahiaoui et al. (PCT Publication No. WO 98/10134, hereinafter "Yahiaoui") is respectfully traversed.

Serial No. 10/034,637

Docket No.: KCC-13,776.1

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference.

As explained above, Yahiaoui does not disclose or suggest a density modulator treatment consisting essentially of an alkyl glycoside applied to a pulp-based nonwoven web material.

Yahiaoui is concerned with reducing the viscosity of a surfactant when applying the surfactant to a substrate, and maintaining the durability of the surfactant on the substrate. There is no suggestion in Yahiaoui for using a viscosity modifier on a pulp-based substrate.

Yahiaoui does not disclose or suggest any thickness-altering effects on a substrate treated with an alkyl glycoside in the absence of a surfactant. Furthermore, Yahiaoui does not disclose or suggest any thickness-altering effects of the treatment disclosed in Yahiaoui. Thus, there is no suggestion or motivation for a person skilled in the art to modify the teachings of Yahiaoui to apply an alkyl glycoside to a pulp-based substrate in the absence of a surfactant to achieve a thickness increase of the substrate when in contact with a blood-containing bodily fluid.

Based on the teachings of Yahiaoui, there would be no reasonable expectation of success for achieving a thickness increase of a pulp-based substrate upon contact with a blood-containing bodily fluid because Yahiaoui does not disclose or suggest such an effect and also does not disclose or suggest the application of alkyl glycoside to a pulp-based substrate, which, according to Applicants' invention, is used to achieve this effect.

Another requirement for establishing a *prima facie* case of obviousness is that the prior art reference must disclose or suggest all the claim limitations. Again, Yahiaoui does not disclose or suggest (1) a pulp-based substrate, (2) a treatment consisting essentially of an alkyl glycoside, or (3) a treatment that causes a thickness increase of a substrate upon contact with a blood-containing bodily fluid.

For at least the reasons given above, Applicants respectfully submit that the teachings of Yahiaoui do not disclose or suggest Applicants' claimed

Serial No. 10/034,637

Docket No.: KCC-13,776.1

invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

#### **Claim Rejections - 35 U.S.C. §102/103**

The rejection of Claims 11-12, 27-28, and 36-37 under 35 U.S.C. §102(a) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over the cited Yahiaoui reference is respectfully traversed.

As explained above, Yahiaoui does not disclose or suggest a density modulator treatment consisting essentially of an alkyl glycoside applied to a pulp-based nonwoven web material. Instead, Yahiaoui discloses a treatment that includes both an alkyl glycoside viscosity modifier and a surfactant applied to a substrate that is not pulp-based. Thus, Yahiaoui does not disclose or suggest any effects on a pulp-based substrate treated with an alkyl glycoside in the absence of a surfactant.

Based on the teachings of Yahiaoui, absent impermissible hindsight, a person skilled in the art would not be motivated to apply a treatment consisting essentially of an alkyl glycoside to a pulp-based substrate to achieve a thickness increase by at least about 12% when in contact with a blood-containing bodily fluid.

For at least the reasons given above, Applicants respectfully submit that the teachings of Yahiaoui do not disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

#### **Allowable Subject Matter**

The Examiner has indicated that Claims 14, 30, and 39 are allowed.

Applicants have amended Claims 14 and 30 to clarify that at least one of the layers, not necessarily a superabsorbent-containing layer, comprises a pulp-based nonwoven web material and is treated with a density modulator, and to include the limitation of the density modulator consisting essentially of an alkyl glycoside.

Applicants have further amended Claims 14 and 30 to correct the antecedent basis of "nonwoven web material," and to remove "nonwovens" and "fluid permeable polymer film" from the list of "pulp-based" nonwoven web materials.

Serial No. 10/034,637

Docket No.: KCC-13,776.1

No changes have been made to Claim 39.

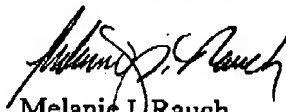
For at least the reasons given above, Applicants believe that Claims 1-11, 13, 14, 16-27, 29, 30, 32-36, and 38-41 are now in condition for allowance.

### Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



Melanie I. Rauch  
Registration No. 40,924

Pauley Petersen & Erickson  
2800 West Higgins Road, Suite 365  
Hoffman Estates, Illinois 60195  
(847) 490-1400  
FAX (847) 490-1403